

**ZONING BOARD OF APPEALS
781-982-2100**

**Minutes
October 10, 2013
Cotter Room
7:00 p.m.**

Members Present: James Haney, Lisa Bezanson, William Mullen, Marshall Adams, Building Inspector/Zoning Enforcement Officer

7:00 p.m. Petition of Jacqueline Bazzinotti, 2 Maple Street, Abington, for: variance to use previously approved second building on lot (rear building) for residential use at 2 Maple Street, under Abington Zoning By-Laws Sec. 175-21-A-1a. The property is located on Assessors Plan 16, Plot 5, in the General Commercial Zone. Voting members: James Haney, Lisa Bezanson, William Mullen.

Sewer advisory – capacity does not exist at the present time. Ms. Bazzinotti – is having trouble renting it as commercial space, so would like to rent it as residential property. Building is set up for either - has bathroom, kitchen, bedroom. Marshall Adams – had question on sewer advisory, thought it was already connected. He didn't know if the original decision had been recorded. Previous filing occurred in 2000. Mr. Mullen - would it change the use from commercial permanently? The original filing has lapsed, but is not needed now. Mr. Haney - didn't think she would ever lose the commercial capabilities. It's not an in-law.

Motion by Mr. Mullen to approve, seconded by Mrs. Bezanson, unanimous.

7:05 p.m. Petition of Greg Brodeur/G & R Realty Trust, 260 Centre Avenue, Abington, for: special permits under 175-21A (1) & (8) to renovate an existing 4-unit residence to a 3-unit residence, and to renovate an existing 2-unit residence to a single family dwelling; variance under 175-52 to allow less than ten parking spaces, at 19 North Avenue. The property is located on Assessors Map 53 Lot 262, in the Highway Commercial District. Voting members: James Haney, Lisa Bezanson, William Mullen.

Mrs. Bezanson made the disclosure that she, her husband and their company have done business with Atty. Reilly, but have no interest in this petition.

Sewer advisory –has no bearing on the sewer system. Atty. Shawn Reilly attended with Greg and Rachel Brodeur. They have a P & S on this property, and there are two buildings on the lot. Property is vacant, needs a lot of work. According to Assessor's office, it's listed as a six-family, with four units in front, two in the rear. They would like to convert it to three in front and one unit in the rear, downsizing the property. Parking would require 10 spaces. There is ledge at the back of the lot. Atty. Reilly submitted parking plan with seven 10'-wide spaces in the rear. Parking would be sufficient for this number of units. They are not expanding footprint of building or adding asphalt. Submitted Assessors map with current properties in this area with usage. This would be a decrease in sewer and water. Assessor's record shows four units in front, two in the rear. In the 70's, it showed five units;

there is no record of when apartments were added. Conversion would consist of three one-bedroom and one two-bedroom.

Opened to floor:

Steve Hitchcock, 11 North Avenue: They bought their property in 1972 and own property behind 19 North Avenue. It was originally three units and one unit. Concerned with parking because overflow goes on to his property. He will be glad to have property improved, but concerned about parking. Thought shed out back should be taken out for more parking. Atty. Reilly - it is being taken out, but there is a boulder out there.

Neighbor, 889 Bedford Street: would like to see fence be repaired. Atty. Reilly – board could put in a condition that fence is to be repaired. Multi-family and commercial are required to put up a fence. Mr. Brodeur agreed to repair fence so tenants would park on their own lot.

Motion by Mr. Mullen to approve as presented with condition that fence is repaired, seconded by Mrs. Bezanson, unanimous.

7:10 p.m. Petition of Shane Crowley, 544 Linwood Street, Abington, for: a 50' frontage and lot width variance and special permit to construct a single family home in the Floodplain and Wetlands Protection District at 498 Linwood Street, under Abington Zoning By-Laws Sec. 175-29 and 175-35. The property is located on Assessors Plan 20, Plot 18Z, in the R-40 Zone. Voting members: James Haney, Lisa Bezanson, William Mullen. Mrs. Bezanson made the disclosure that she, her husband and their company have done business with Atty. Timmins, Shane Crowley and the Russell Wheatley Co., but has no interest in this petition.

Sewer advisory - capacity doesn't exist at the present time. Conservation Commission - NOI will need to be filed with commission.

James Timmins, Atty. attended representing Shane Crowley. There is hardship due to site previously being subdivided. The Trenholm lot was established between Lots 1 and 2 that were part of the latest subdivision on this property. When this occurred, it left Lot 3 with only 50' of frontage, irregularly shaped. Hardship relates to that irregular shape and lack of frontage. In order to be developed, applicant would have to bring in road off Linwood Street into upland area at a considerable cost. Shane wants a single family home, not subdivision. Due to lack of frontage, the only way to conform would be for road to be constructed, and the only way to recoup costs would be to have several lots. The applicant didn't create this condition. The hardship arises from when the Trenholm lot was placed there. The frontage on Lot 2 is 122 feet. When subdivision was done, a conforming lot was created and what was left over leaves enough access to the back that you could do a development. Atty. Timmins didn't think the single lot would be derogating from the by-law. This is a low density R-40 district. This would be one home with no further development possible. Feels it is appropriate for the board to approve due to circumstances. It was short on frontage after the subdivision. Street is well developed and readily traveled by emergency vehicles. There shouldn't be a traffic impact. One house would be complying with the intent of bylaws. Lot is compliant dimensionally.

Atty. Timmins - there is concern about what is occurring on some of the abutting lots. Topography shows that lot slopes back and away from abutting properties. Proposed structure is significantly away from other lots. He is aware he has to go to Conservation. Order of Conditions would address concerns in this type of project. If he gets frontage variance, there will be a lot of engineering work ahead. Feels this will help neighbors and will mitigate any impact on neighbors. Felt circumstances are unique. Area could be developed by right if they put in road, which would have more substantial impact.

Mr. Haney -they are looking for variance and special permit in the overlay district. Atty. Timmins – it isn't cost efficient to put out money for engineering for Conservation yet. Mr. Haney - ZBA wouldn't want to rule on wetlands; that would be in Conservation's area. Atty. Timmins - this is a single family home and engineering is going to be expensive. They understand concerns of neighbors. They will do the engineering if relief granted; they will do this for Shane to live in. His mother lives in this area. They will do whatever Conservation issues as far as conditions. Mr. Haney didn't have a concern about 50' relief, but relief on special permit is the question. Atty. Timmins - work in upland area will be hay baled. This will mitigate impact to wetland area. Neighbors have existing flooding issues. He may be able to provide some relief due to topography. It is a 28.5 acre parcel.

Atty. Timmins - they need relief to construct in floodplain. Conservation will issue orders to deal with this. This will shut down lot, limiting it to one lot. Could be conditioned upon the applicant filing a Notice of Intent and obtaining an order of conditions and complying with those conditions. There is 9,000 s.f. of upland that could be used for replication for the road. Conservation would have to sign off on the building permit. A restriction will be put in the deed that there would be no other development according to Mr. Crowley. It will be connected to town sewer. They have a sewer sign off.

Mr. Mullen - why is this proposal different than what they were looking at in the spring? Shane Crowley - it was lack of preparation earlier. Mr. Mullen was concerned about precedent.

Opened to floor:

Rich Nigrelli, 349 Diane Circle - concerned with driveway cutting off the water flow, will build up and cause problem. This is lined up with his property. It was taken off the table when it was here in the spring. On previous plan Lot 3 was listed as unbuildable. How is it now buildable? Goes out to river. Thinks it is a hazard that the driveway is so narrow and goes so far in the road. Water will build up and cause problems for him and his neighbors. It is wet all around there.

Matt Hannigan, 352 Diane Circle – Shane came by which he appreciated, but he is concerned about water. He asked Shane what happens if his yard gets flooded. What guarantees do the neighbors have? If it gets flooded, he said they would be out of luck. Atty. Timmins mentioned equalization pipe - anytime water overflowed, it would go into pipe. Mr. Hannigan - won't building on wetlands cause more water onto neighbors? Atty. Timmins - there are measures they can take. Mr. Hannigan wants guarantees. What happens if he sells and someone else wants to put other houses in? Can they get a continuation - wants to talk to his lawyer. Mr. Haney - conditions could be written into deeds. Atty. Timmins - once driveway goes in, he is putting the house in the middle of the only upland. Mr. Haney - laws can change. Mr. Crowley - they will have a more in-depth plan for Conservation.

Abutter, concerned - before special permit is issued, Conservation issues should be settled.

Mr. Hannigan - asked if this is granted, is there was any appeal available? Yes.

Abutter – will it be a road or a driveway up to house? Mr. Haney – will be a driveway. Building Inspector – driveway is 16’.

Susan Crowley, 524 Linwood Street - lives right beside the lot. Isn't this to see if he can go to the next step with Conservation? Mr. Haney – this is for relief from frontage width with 70’ of relief – you need 120’; and special permit to build in wetlands overlay district. In most instances, the overlay district is not wetlands. This is for driveway and to construct in FPWPD. The applicant can't make anyone's property worse with the construction. Mr. Haney – it is not ZBA's responsibility as far as engineering of lot, driveway. Conservation can have it reviewed by an engineer. Engineering concerns will be handled in Conservation. Building Inspector - this is to give permission to see if they can try with Conservation.

Caitlyn, abutter - if lots take on more water, what is their recourse? Mr. Haney wasn't sure; probably the engineer that signed the report. Mr. Hannigan - not necessarily against it, but doesn't want to take a gamble on his property. Where can they go if there is a problem? Mrs. Bezanson - it is supposed to be engineered so it doesn't shed water onto other people's property. Mr. Haney – he would go to the engineer that signed the report; he's a registered professional engineer who has malpractice insurance. Mr. Mullen - Conservation will have an engineer review the engineering presented that Mr. Crowley will have to pay for.

Rich Nigrelli – his house was there first and is concerned this house will cause problems on his lot.

Paul Crowley - one house in 28 acres isn't going to affect Mr. Nigrelli's property. They are not going to change the flow of water. He can understand concerns. If they are concerned there will be more development there, they will donate 25 acres to whoever wants it. They can put it in the deed as to only one house can be constructed, or someone can have 25 acres. There won't be additional development.

Marshall Adams - he has the right to put in road and subdivision. Atty. Timmins - equalization pipe will divert water elsewhere. He can put in catch basins to collect rain. Shane - will have it fully engineered for when they go to Conservation. Atty. Timmins – they can answer abutter issues through Conservation. He's not paying engineering money now before they know if they can go forward to Conservation.

Abutter, 372 Diane Circle -has objection as to what they have been told and not being comfortable with it. At Conservation hearing Paul Crowley had said there were two buildable lots on the entire area. Paul Crowley – without a variance. They can only build in uplands area.

Mr. Haney – what's before the board tonight is for variance for frontage and special permit for overlay district. Closed to the floor and brought back to table. Marshall Adams - they have a long way to go with Conservation; there are no guarantees this will make it. Recourse would be through engineers and their insurance. Mr. Haney - didn't have issue with frontage - they could put in a road. As far as wetlands issue, he has reservations, but that is Conservation. Mrs. Bezanson – According to plans, road

is 15' higher than proposed dwelling, so water would be going toward Shane's house and towards back, won't flow toward front. Mr. Mullen - doesn't like to give that much relief for frontage, but the house isn't going into someone's backyard - it's 400' away. He would rather not judge between two evils, but would rather one house than several. He's willing to let him try it. Mr. Haney – would they consider a condition that they would consent to restrictive covenant or donate land to Conservation? Atty. Timmins – he's going to be paying taxes on all this, so he would be willing to donate the land. They would consent to a restrictive covenant. Shane – he could donate to Conservation too. Mr. Haney – the applicant should look at it legally before he commits to one house and land donations. Condition could be put on the property to build only one house that would run with the land forever. Mrs. Bezanson – didn't see why one house should be stipulated when he has the right to put more than one. Mr. Haney – that is a trade. Atty. Timmins - didn't think restrictive covenant necessary; it would be in the decision. Mrs. Bezanson – this petition is for one house, so he would have to come back before the board if he wanted a second house.

Motion by Mrs. Bezanson to approve the petition for frontage and lot width variance and special permit to construct one single family home in the FPWPD at 498 Linwood Street, seconded by Mr. Mullen, unanimous.

Meeting adjourned at 8:45 p.m.

Respectfully submitted,

Nancy Hurst